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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of: ) Group Art Unit: 1801

TRIPP et al. ) Examiner:

Serial No.: 09/003,574 ) SUBMISSION OF MISSING PARTS

Filed: January 6, 1998 )

Atty. File No.: 2618-21-1-C1 )

For: "NOVEL PARASITE ASTACIN  
METALLOENDOPEPTIDASE  
PROTEINS" )

Assistant Commissioner For Patents  
Box Missing Parts  
Washington, D.C. 20231

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS  
BEING DEPOSITED WITH THE UNITED STATES POSTAL  
SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE  
ADDRESSED TO THE ASSISTANT COMMISSIONER FOR  
PATENTS, WASHINGTON, DC 20231 ON April 29, 1998.  
SHERIDAN ROSE P.C.

BY: Kathleen Russell

MAY 13 1998

Dear Sir:

In response to the Notice to File Missing Parts dated April 7, 1998, in connection with the above-identified application, enclosed herewith are a Declaration and Power of Attorney. Please note that the Assignment documents have been submitted to the Assignment Branch under separate cover on this same date.

Also enclosed is a check for \$1,172 which includes payment of the filing fee in the amount of \$1,042 reflecting large entity status, and the amount of \$130.00 payment of the surcharge. Please note that the Notice inaccurately reflects the amount of independent claims over 3; therefore, the amount indicated that Applicants owe is also incorrect. Applicants' payment submitted herewith includes the extra claim which was not accounted for by the Patent Office when calculating the fees owed by Applicants. Please credit any overpayment or debit any underpayment to Deposit

Account No. 19-1970. A copy of the Notice to File Missing Parts is also enclosed.

Respectfully submitted,

SHERIDAN ROSS P.C.

By: Angela Dallas-Pedretti  
Angela Dallas-Pedretti  
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Date: 4-29-98



37 CFR §1.55(a) and (b)  
**DUTY TO DISCLOSE INFORMATION MATERIAL  
TO PATENTABILITY**

10/09/2006

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of a patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.\*

\*Note, 37 CFR §1.97(h) states: "The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56(b)."